

Constitutional Court Ruling No. 15-16/2564 (2021)

Criminal Court

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Applicant

Respondent

Constitution, section 26;
Civil Procedure Code, section 33.

Section 33 of the Civil Procedure Code provided that a court had the competence to impose a penalty on a person for an offence of contempt of the court by any means or both means, namely expulsion from the court premises or impose a penalty of imprisonment or fine, or both. The maximum term of imprisonment was six months. The provisions allowed the court to choose the appropriate legal procedures for each instance on the principle of necessity. This provision did not mandate the court to impose an imprisonment penalty on an offender immediately. The Court had a discretion to impose any lesser penalty than the maximum penalty provided by law, or even refrain from imposing a penalty. Even though there was some restriction of rights and liberties of a person, the increase in burden or restriction of right or liberty of a person was not unreasonably excessive. The measure was therefore consistent with the principle of necessity and principle of proportionality. It was reasonable for the case and not contrary to the rule of law, did not prejudice human dignity, and was a law applied generally without being directed to any particular case or person. Hence the provision was neither contrary to nor inconsistent with section 26 of the Constitution.